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BILL ANALYSIS

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House Bill 4582 (Substitute H-4 as passed by the House)
House Bill 5284 (Substitute H-1 as passed by the House)
Sponsor: Representative Frank D. Foster (H.B. 4582)
Representative Marilyn Lane (H.B. 5284)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 5-21-14

CONTENT

House Bill 4582 (H-4) would amend Article 24 (Residential Builders) of the Occupational Code to do the following:

- **Revise the prelicensure course of study requirements for licensure under Article 24, and provide an exemption from those requirements for certain individuals.**
- **Revise continuing competency requirements for a licensee under Article 24.**
- **Delete provisions incorporating educational courses described in a 2005 publication of the National Association of Home Builders as approved for meeting the continuing competency requirements of Article 24.**
- **Revise requirements regarding a licensee's inactive status.**

House Bill 5284 (H-1) would amend Article 24 to do the following:

- **Delete the authority of the Department of Licensing and Regulatory Affairs (LARA) to require evidence of an applicant's or licensee's financial stability.**
- **Establish licensure requirements for an applicant for licensure or relicensure who previously had been licensed and subsequently was denied licensure because of financial instability.**

House Bill 4582 (H-4) would take effect 90 days after its enactment. House Bill 5284 (H-1) is tie-barred to House Bill 4582.

House Bill 4582 (H-4)

Prelicensure Study Requirements & Exemptions

Article 24 requires an applicant for initial licensure as a residential builder or as a residential maintenance and alteration contractor to successfully complete prelicensure courses of study, and specifies courses and hours of study that must be completed. An applicant must successfully complete 60 hours of approved prelicensure courses consisting of at least six hours of courses in each of the following areas of competency:

- Business management, estimating, and job costing.
- Design and building science.
- Contracts, liability, and risk management.

- Marketing and sales.
- Project management and scheduling.
- The current Michigan Residential Code.
- Construction safety standards promulgated under the Michigan Occupational Safety and Health Act.

The bill specifies that unless an applicant for initial licensure was exempt, he or she could not receive an initial license without successfully completing those requirements.

Under Article 24, an individual who held a residential builder or a residential maintenance and alteration contractor license, as an individual or as a qualifying officer of a licensee, on June 1, 2008, and is renewing a license, is exempt from the requirement of successfully completing prelicensure courses.

Under the bill, an individual also would be exempt from the prelicensure study requirements if he or she were applying for a license or relicensure as a residential builder or residential maintenance and alteration contractor, if both of the following were met:

- The application was submitted 18 months after the bill's effective date.
- The applicant held an individual license as a residential builder or residential maintenance and alteration contractor, or held a license as a qualifying officer of a licensed residential builder or residential maintenance and alteration contractor, at any time within the nine years preceding his or her application.

Demonstrating Continuing Competency

The bill would revise requirements for a licensee under Article 24 to demonstrate continuing competency

Currently, a person obtaining initial licensure as a residential builder or residential maintenance and alteration contractor on or after January 1, 2009, must complete successfully at least three hours of activities demonstrating continuing competency each calendar year, during the first six years of licensure, and 21 hours per three-year period since his or her license was issued. At least three hours must be devoted to activities designed to develop a licensee's understanding of and ability to apply State building codes and laws relating to the licensed occupation, safety, and changes in construction and business management laws.

Under the bill, if an individual licensee obtained his or her initial license on or after January 1, 2009, he or she would have to successfully complete at least 21 hours of activities that demonstrated continuing competency in each three-year cycle, including both of the following:

- At least three hours of activities that demonstrated continuing competency in each calendar year, during the first six calendar years of licensure.
- At least three hours of activities designed to develop a licensee's understanding and ability to apply State building codes and laws relating to the licensed occupation, safety, and changes in construction and business management laws.

If the individual licensee were exempt from the prelicensure course requirements under the exemption proposed by the bill when he or she obtained initial licensure, the hours of activities that he or she would have to complete in the first year of the first three-year license cycle would have to include successful completion of at least one hour of codes, one hour of safety, and one hour of legal issues.

If a licensee were initially licensed under Article 24 before January 1, 2009, he or she had held a license for not more than two three-year license cycles, and LARA had not taken disciplinary action against him or her for a violation of the Code or a rule promulgated under it, the licensee would have to successfully complete at least three hours of activities that demonstrated continuing competency in each three-year license cycle that included at least one hour of codes, one hour of safety, and one hour of legal issues.

Currently, if a licensee has held a license for more than six years or has not been determined by LARA in a final order to have violated the Code or a rule adopted under it, he or she must complete successfully at least three hours of activities demonstrating continuing competency per license cycle, including one hour each of codes, safety, and legal issues. Under the bill, this would apply if a licensee had held a license for more than two three-year license cycles and the Department had not taken disciplinary action against him or her for a violation of the Code or rules promulgated under it.

Under Article 24, if a licensee has been determined by LARA in a final order to have violated the Code or a rule, he or she must complete successfully, during the next complete license cycle, up to 21 hours of activities demonstrating the development of continuing competency, as determined appropriate by LARA order, including one hour each of codes, safety, and legal issues. Under the bill, such a person would have to successfully complete, during the next complete license cycle, at least three and not more than 21 hours of those activities, and at least three of those hours would have to include one hour of codes, one hour of safety, and one hour of legal issues.

Article 24 specifies that education courses described in the January 2005 edition of the publication "NAHB University of Housing, Blueprint for Success", published by the National Association of Home Builders and taught by instructors meeting requirements of that publication, are considered approved and appropriate for continuing competency requirements and are incorporated by reference. Article 24 also allows LARA to waive the requirement of membership in a local, state, or national trade association contained in the instructor standards. By rule, LARA may amend, supplement, update, substitute, or determine equivalency regarding the standards and must establish instructor qualifications for courses not incorporated by reference. The bill would delete those provisions.

Inactive Status

Article 24 allows a licensed residential builder or residential maintenance and alteration contractor to apply for inactive status by completing an application made available by LARA. In the application, the licensee must declare that he or she is no longer actively engaged in the practice authorized by his or her license and temporarily intends to suspend authorized activity. When a completed application is submitted, LARA must designate the licensee as inactive and note that status on records available to the public.

A licensee designated as inactive must have a current copy of the Michigan Residential Code. He or she is exempt from the continuing competency requirements of Article 24, but still must pay the per-year license fee. An inactive licensee may activate his or her license by submitting an application to LARA. Upon activation of a license, the licensee must complete at least one credit hour of continuing competency for that calendar year.

Under the bill, a licensee who applied for and was designated inactive before the bill's effective date could remain in inactive status by complying with the provisions described above. A licensee who remained in inactive status after the bill's effective date would be exempt from the continuing competency requirements while he or she remained in inactive status. A licensee could activate his or her license by submitting an application to LARA requesting activation of the license. If a license were activated, the licensee would have to

complete at least one credit hour of activities that demonstrated continuing competency for that calendar year.

House Bill 5284 (H-1)

Article 24 allows LARA to require an applicant for licensure, a licensee, or each partner, trustee, director, officer, member, or shareholder to submit evidence of good moral character and financial stability. The bill would delete LARA's authority to require evidence of financial stability.

Under the bill, the following provisions would apply to an individual who applied for a license or relicensure as a residential builder or residential maintenance and alteration contractor, who was a qualifying officer on December 21, 2007, and subsequently was denied an individual license because of financial instability.

The Department would have to determine whether the applicant should receive a license under Article 24 and what requirements the applicant would have to meet to qualify for that license. In making that determination, LARA would have to consider the information it received concerning good moral character, would have to determine whether the applicant was required to pass an examination, and could require him or her to meet other requirements for licensure. An applicant would have to certify that he or she successfully completed at least three hours of activities that demonstrated continuing competency in the 12 months immediately preceding the date of application. Those activities would have to include one hour of codes, one hour of safety, and one hour of activities designed to develop an understanding and ability to apply State building codes and laws relating to the licensed occupation.

MCL 339.2404b (H.B. 4582)
339.2404 et al. (H.B. 5284)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.